

**Amendment - 1st Reading-white - Requested by: Daniel Zolnikov - (S) Business, Labor, and Economic Affairs**

- 2023

68th Legislature 2023

Drafter: Trevor Graff, 406-444-4975

SB0178.001.002

1 SENATE BILL NO. 178

2 INTRODUCED BY D. ZOLNIKOV

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING CRYPTOCURRENCY LAWS;  
5 PROHIBITING DISCRIMINATORY DIGITAL ASSET MINING UTILITY RATES; PROHIBITING LOCAL  
6 GOVERNMENT POWERS RELATED TO DIGITAL ASSET MINING; PROHIBITING TAXATION ON THE USE  
7 OF CRYPTOCURRENCY AS A PAYMENT METHOD; PROVIDING FOR DIGITAL ASSETS AS PERSONAL  
8 PROPERTY; AMENDING SECTIONS 7-1-111, 15-1-101, AND 70-1-108, MCA; AND PROVIDING AN  
9 IMMEDIATE EFFECTIVE DATE."

10  
11 WHEREAS, digital asset mining provides positive economic value for individuals and companies  
12 throughout the United States; and

13 WHEREAS, digital asset mining has often faced difficulty with regulations at the state and local level;  
14 and

15 WHEREAS, the State of Montana wants to protect the right of individuals and businesses to mine  
16 digital assets and create legal certainty for the digital asset mining industry; and

17 WHEREAS, digital asset mining has the potential to stabilize the grid and provide revenue for  
18 infrastructure upgrades statewide.

19  
20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

21  
22 NEW SECTION. Section 1. Digital asset mining ratemaking. (1) The commission may not establish  
23 a rate classification for digital asset mining, digital asset mining businesses, or home digital asset mining that  
24 creates unduly discriminatory rates.

25 (2) For the purposes of this section, the following definitions apply:

26 (a) "Data center" means a use involving a building or premises in which the majority of the use is  
27 occupied by computers, telecommunications, or related equipment, including supporting equipment, where

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68th Legislature 2023

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SB0178.001.002

1 information is processed, transferred, and stored.

2 (a) "Digital asset mining" means the use of electricity to power a computer for the purpose of  
3 securing a blockchain network.

4 (b) "Digital asset mining business" means a group of computers working at a single site that  
5 consume more than 1 megawatt of energy on an average annual basis for the purpose of generating digital  
6 assets by securing a blockchain network.

7 (c) "Discriminatory rates" means electricity rates substantially different from other industrial similar  
8 uses of electricity in similar geographic areas after accounting for the load profile and cost of service.

9 (d) "Home digital asset mining" means mining digital assets in areas zoned for residential use that  
10 consume less than 1 megawatt of energy on an average annual basis for the purpose of generating digital  
11 assets by securing a blockchain network.

12  
13 NEW SECTION. Section 2. Digital assets taxation. A state or local government entity may not  
14 charge an additional tax, withholding, assessment, or charge on the value of digital assets when used as a  
15 method of payment.(1) Digital assets used as a method of payment may not be subject to any additional tax,  
16 withholding, assessment, or charge by the state or a local government that is based solely on the use of the  
17 digital asset as the method of payment.

18 (2) Nothing in this section prohibits the state or a local government from imposing or collecting a  
19 tax, withholding, assessment, or charge otherwise authorized by Titles 15 or 16.

20  
21 **Section 3.** Section 7-1-111, MCA, is amended to read:

22 **"7-1-111. Powers denied.** A local government unit with self-government powers is prohibited from  
23 exercising the following:

24 (1) any power that applies to or affects any private or civil relationship, except as an incident to the  
25 exercise of an independent self-government power;

26 (2) any power that applies to or affects the provisions of 7-33-4128 or Title 39, except that subject  
27 to those provisions, it may exercise any power of a public employer with regard to its employees;

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SB0178.001.002

- 1           (3)     any power that applies to or affects the public school system, except that a local unit may  
2 impose an assessment reasonably related to the cost of any service or special benefit provided by the unit and  
3 shall exercise any power that it is required by law to exercise regarding the public school system;
- 4           (4)     any power that prohibits the grant or denial of a certificate of compliance or a certificate of  
5 public convenience and necessity pursuant to Title 69, chapter 12;
- 6           (5)     any power that establishes a rate or price otherwise determined by a state agency;
- 7           (6)     any power that applies to or affects any determination of the department of environmental  
8 quality with regard to any mining plan, permit, or contract;
- 9           (7)     any power that applies to or affects any determination by the department of environmental  
10 quality with regard to a certificate of compliance;
- 11          (8)     any power that defines as an offense conduct made criminal by state statute, that defines an  
12 offense as a felony, or that fixes the penalty or sentence for a misdemeanor in excess of a fine of \$500, 6  
13 months' imprisonment, or both, except as specifically authorized by statute;
- 14          (9)     any power that applies to or affects the right to keep or bear arms;
- 15          (10)    any power that applies to or affects a public employee's pension or retirement rights as  
16 established by state law, except that a local government may establish additional pension or retirement  
17 systems;
- 18          (11)    any power that applies to or affects the standards of professional or occupational competence  
19 established pursuant to Title 37 as prerequisites to the carrying on of a profession or occupation;
- 20          (12)    except as provided in 7-3-1105, 7-3-1222, 7-21-3214, or 7-31-4110, any power that applies to  
21 or affects Title 75, chapter 7, part 1, or Title 87;
- 22          (13)    any power that applies to or affects landlords, as defined in 70-24-103, when that power is  
23 intended to license landlords or to regulate their activities with regard to tenants beyond what is provided in Title  
24 70, chapters 24 and 25. This subsection is not intended to restrict a local government's ability to require  
25 landlords to comply with ordinances or provisions that are applicable to all other businesses or residences  
26 within the local government's jurisdiction.
- 27          (14)    subject to 7-32-4304, any power to enact ordinances prohibiting or penalizing vagrancy;

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- 2023

68th Legislature 2023

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SB0178.001.002

1 (15) subject to 80-10-110, any power to regulate the registration, packaging, labeling, sale, storage,  
2 distribution, use, or application of commercial fertilizers or soil amendments, except that a local government  
3 may enter into a cooperative agreement with the department of agriculture concerning the use and application  
4 of commercial fertilizers or soil amendments. This subsection is not intended to prevent or restrict a local  
5 government from adopting or implementing zoning regulations or fire codes governing the physical location or  
6 siting of fertilizer manufacturing, storage, and sales facilities.

7 (16) subject to 80-5-136(10), any power to regulate the cultivation, harvesting, production,  
8 processing, sale, storage, transportation, distribution, possession, use, and planting of agricultural seeds or  
9 vegetable seeds as defined in 80-5-120. This subsection is not intended to prevent or restrict a local  
10 government from adopting or implementing zoning regulations or building codes governing the physical location  
11 or siting of agricultural or vegetable seed production, processing, storage, sales, marketing, transportation, or  
12 distribution facilities.

13 (17) any power that prohibits the operation of a mobile amateur radio station from a motor vehicle,  
14 including while the vehicle is in motion, that is operated by a person who holds an unrevoked and unexpired  
15 official amateur radio station license and operator's license, "technician" or higher class, issued by the federal  
16 communications commission of the United States;

17 (18) subject to 76-2-240 and 76-2-340, any power that prevents the erection of an amateur radio  
18 antenna at heights and dimensions sufficient to accommodate amateur radio service communications by a  
19 person who holds an unrevoked and unexpired official amateur radio station license and operator's license,  
20 "technician" or higher class, issued by the federal communications commission of the United States;

21 (19) any power to require a fee and a permit for the movement of a vehicle, combination of vehicles,  
22 load, object, or other thing of a size exceeding the maximum specified in 61-10-101 through 61-10-104 on a  
23 highway that is under the jurisdiction of an entity other than the local government unit;

24 (20) any power to enact an ordinance governing the private use of an unmanned aerial vehicle in  
25 relation to a wildfire;

26 (21) any power as prohibited in 7-1-121(2) affecting, applying to, or regulating the use, disposition,  
27 sale, prohibitions, fees, charges, or taxes on auxiliary containers, as defined in 7-1-121(5);

**Amendment - 1st Reading-white - Requested by: Daniel Zolnikov - (S) Business, Labor, and Economic Affairs**

- 2023

68th Legislature 2023

Drafter: Trevor Graff, 406-444-4975

SB0178.001.002

1 (22) any power that provides for fees, taxation, or penalties based on carbon or carbon use in  
2 accordance with 7-1-116;

3 (23) any power to require an employer, other than the local government unit itself, to provide an  
4 employee or class of employees with a wage or employment benefit that is not required by state or federal law;

5 (24) any power to enact an ordinance prohibited in 7-5-103 or a resolution prohibited in 7-5-121 and  
6 any power to bring a retributive action against a private business owner as prohibited in 7-5-103(2)(d)(iv) and 7-  
7 5-121(2)(c)(iv); or

8 (25) any power to prohibit the sale of alternative nicotine products or vapor products as provided in  
9 16-11-313(1);

10 (26) any power to impose requirements on a digital asset mining business as defined in [section 1]  
11 that are not also requirements for data centers in its area of jurisdiction;

12 (27) any power to prevent home digital asset mining as defined in [section 1] at a private residence,  
13 except as related to existing noise or lighting ordinances; or

14 (28) any power to change the zoning of ~~an area that contains an active digital asset mining~~  
15 ~~business as defined in [section 1] any parcel or lot that contains an active digital asset mining business or~~  
16 ~~adjacent parcels owned or controlled by an active digital asset mining business as defined in [section 1] or~~  
17 prevent a digital asset mining business from operating in an area zoned for industrial use."

18  
19 **Section 4.** Section 15-1-101, MCA, is amended to read:  
20 **"15-1-101. Definitions.** (1) Except as otherwise specifically provided, when terms mentioned in this  
21 section are used in connection with taxation, they are defined in the following manner:

22 (a) The term "agricultural" refers to:

23 (i) the production of food, feed, and fiber commodities, livestock and poultry, bees, biological  
24 control insects, fruits and vegetables, and sod, ornamental, nursery, and horticultural crops that are raised,  
25 grown, or produced for commercial purposes; and

26 (ii) the raising of domestic animals and wildlife in domestication or a captive environment.

27 (b) The term "assessed value" means the value of property as defined in 15-8-111.

**Amendment - 1st Reading-white - Requested by: Daniel Zolnikov - (S) Business, Labor, and Economic Affairs**

- 2023

68th Legislature 2023

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SB0178.001.002

1 (c) The term "average wholesale value" means the value to a dealer prior to reconditioning and the  
2 profit margin shown in national appraisal guides and manuals or the valuation schedules of the department.

3 (d) (i) The term "commercial", when used to describe property, means property used or owned by  
4 a business, a trade, or a corporation as defined in 35-2-114 or used for the production of income, including  
5 industrial property defined in subsection (1)(j), and excluding property described in subsection (1)(d)(ii).

6 (ii) The following types of property are not commercial:

7 (A) agricultural lands;

8 (B) timberlands and forest lands;

9 (C) single-family residences and ancillary improvements and improvements necessary to the  
10 function of a bona fide farm, ranch, or stock operation;

11 (D) mobile homes and manufactured homes used exclusively as a residence except when held by  
12 a distributor or dealer as stock in trade; and

13 (E) all property described in 15-6-135.

14 (e) The term "comparable property" means property that:

15 (i) has similar use, function, and utility;

16 (ii) is influenced by the same set of economic trends and physical, governmental, and social  
17 factors; and

18 (iii) has the potential of a similar highest and best use.

19 (f) The term "credit" means solvent debts, secured or unsecured, owing to a person.

20 (g) (i) "Department", except as provided in subsection (1)(g)(ii), means the department of revenue  
21 provided for in 2-15-1301.

22 (ii) In chapters 70 and 71, department means the department of transportation provided for in 2-  
23 15-2501.

24 (h) The term "digital assets" means cryptocurrencies, natively electronic assets, including stable  
25 coins and nonfungible tokens, and other digital-only assets that confer economic, proprietary, or access rights  
26 or powers.

27 (h)(i) The terms "gas" and "natural gas" are synonymous and mean gas as defined in 82-1-111(2).

**Amendment - 1st Reading-white - Requested by: Daniel Zolnikov - (S) Business, Labor, and Economic Affairs**

- 2023

68th Legislature 2023

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SB0178.001.002

1 The terms include all natural gases and all other fluid hydrocarbons, including methane gas or any other natural  
2 gas found in any coal formation.

3 ~~(i)~~(j) The term "improvements" includes all buildings, structures, fences, and improvements situated  
4 upon, erected upon, or affixed to land. When the department determines that the permanency of location of a  
5 mobile home, manufactured home, or housetrailer has been established, the mobile home, manufactured  
6 home, or housetrailer is presumed to be an improvement to real property. A mobile home, manufactured home,  
7 or housetrailer may be determined to be permanently located only when it is attached to a foundation that  
8 cannot feasibly be relocated and only when the wheels are removed.

9 ~~(j)~~(k) "Industrial property" for purposes of this section includes all land used for industrial purposes,  
10 improvements, and buildings used to house the industrial process and all storage facilities. Under this section,  
11 industrial property does not include personal property classified and taxed under 15-6-135 or 15-6-138.

12 ~~(k)~~(l) The term "leasehold improvements" means improvements to mobile homes and mobile homes  
13 located on land owned by another person. This property is assessed under the appropriate classification, and  
14 the taxes are due and payable in two payments as provided in 15-24-202. Delinquent taxes on leasehold  
15 improvements are a lien only on the leasehold improvements.

16 ~~(l)~~(m) The term "livestock" means cattle, sheep, swine, goats, horses, mules, asses, llamas, alpacas,  
17 bison, ostriches, rheas, emus, and domestic ungulates.

18 ~~(m)~~(n) (i) The term "manufactured home" means a residential dwelling built in a factory in accordance  
19 with the United States department of housing and urban development code and the federal Manufactured  
20 Home Construction and Safety Standards.

21 (ii) A manufactured home does not include a mobile home, as defined in subsection (1)~~(e)~~ (p), or a  
22 mobile home or housetrailer constructed before the federal Manufactured Home Construction and Safety  
23 Standards went into effect on June 15, 1976.

24 ~~(n)~~(o) The term "market value" means the value of property as provided in 15-8-111.

25 ~~(o)~~(p) The term "mobile home" means forms of housing known as "trailers", "housetrailer", or "trailer  
26 coaches" exceeding 8 feet in width or 45 feet in length, designed to be moved from one place to another by an  
27 independent power connected to them, or any trailer, housetrailer, or trailer coach up to 8 feet in width or 45

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- 2023

68th Legislature 2023

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SB0178.001.002

1 feet in length used as a principal residence.

2 ~~(p)~~(q) The term "personal property" includes everything that is the subject of ownership but that is not  
3 included within the meaning of the terms "real estate" and "improvements" and "intangible personal property" as  
4 that term is defined in 15-6-218.

5 ~~(q)~~(r) The term "poultry" includes all chickens, turkeys, geese, ducks, and other birds raised in  
6 domestication to produce food or feathers.

7 ~~(r)~~(s) The term "property" includes money, credits, bonds, stocks, franchises, and all other matters  
8 and things, real, personal, and mixed, capable of private ownership. This definition may not be construed to  
9 authorize the taxation of the stocks of a company or corporation when the property of the company or  
10 corporation represented by the stocks is within the state and has been taxed.

11 ~~(s)~~(t) The term "real estate" includes:

12 (i) the possession of, claim to, ownership of, or right to the possession of land;

13 (ii) all mines, minerals, and quarries in and under the land subject to the provisions of 15-23-501  
14 and Title 15, chapter 23, part 8;

15 (iii) all timber belonging to individuals or corporations growing or being on the lands of the United  
16 States; and

17 (iv) all rights and privileges appertaining to mines, minerals, quarries, and timber.

18 ~~(t)~~(u) "Recreational" means hunting, fishing, swimming, boating, waterskiing, camping, biking, hiking,  
19 and winter sports, including but not limited to skiing, skating, and snowmobiling.

20 ~~(u)~~(v) "Research and development firm" means an entity incorporated under the laws of this state or a  
21 foreign corporation authorized to do business in this state whose principal purpose is to engage in theoretical  
22 analysis, exploration, and experimentation and the extension of investigative findings and theories of a scientific  
23 and technical nature into practical application for experimental and demonstration purposes, including the  
24 experimental production and testing of models, devices, equipment, materials, and processes.

25 ~~(v)~~(w) The term "stock in trade" means any mobile home, manufactured home, or housetrailer that is  
26 listed by the dealer as inventory and that is offered for sale, is unoccupied, and is not located on a permanent  
27 foundation. Inventory does not have to be located at the business location of a dealer or a distributor.

**Amendment - 1st Reading-white - Requested by: Daniel Zolnikov - (S) Business, Labor, and Economic Affairs**

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68th Legislature 2023

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SB0178.001.002

1           ~~(w)~~(x) The term "taxable value" means the market value multiplied by the classification tax rate as  
2 provided for in Title 15, chapter 6, part 1.

3           ~~(x)~~(y) The term "taxes" in relation to property under 15-6-133, 15-6-134, or 15-6-143 is the amount  
4 owed by a taxpayer that is the market value multiplied by the tax rate multiplied by the applicable mills,  
5 exclusive of local fees and assessments.

6           (2) The phrase "municipal corporation" or "municipality" or "taxing unit" includes a county, city,  
7 incorporated town, township, school district, irrigation district, or drainage district or a person, persons, or  
8 organized body authorized by law to establish tax levies for the purpose of raising public revenue.

9           (3) The term "state board", "Montana board", or "board" when used without other qualification  
10 means the Montana tax appeal board."  
11

12           **Section 5.** Section 70-1-108, MCA, is amended to read:

13           **"70-1-108. Personal property defined.** (1) Every kind of property that is not real is personal.

14           (2) Digital assets are considered personal property.

15           (3) For the purposes of this section, "digital assets" means cryptocurrencies, natively electronic  
16 assets, including stable coins and nonfungible tokens, and other digital-only assets that confer economic,  
17 proprietary, or access rights or powers."  
18

19           NEW SECTION. Section 6. Codification instruction. (1) [Section 1] is intended to be codified as an  
20 integral part of Title 69, chapter 3, and the provisions of Title 69, chapter 3, apply to [section 1].

21           (2) [Section 2] is intended to be codified as an integral part of Title 15, and the provisions of Title  
22 15 apply to [section 2].  
23

24           NEW SECTION. Section 7. Effective date. [This act] is effective on passage and approval.  
25

- END -